IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4556 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Petitioner(s)

Versus

KANJIBHAI K PARMAR - Respondent(s)

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Appearance :

MR HARDIK C RAWAL for Petitioner(s) : 1,
MR MUKESH RATHOD for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 18/11/2005

CAV JUDGMENT

1.By filing this petition, the petitioner corporation has challenged the judgment and award dated 17.09.1992 passed by the Labour Court, Godhra in Reference (LCG)

No. 291 of 1991, by which the Presiding Officer, Godhra has directed the petitioner corporation to reinstate the respondent workman on his original post with continuity of service.

2. During the course of hearing of this petition, it was pointed out by the learned advocate appearing for the petitioner corporation that the respondent workman has been reinstated in service vide order dated 15.10.1992. Learned advocate appearing for the petitioner – corporation has produced on record the order dated 15.10.1992 reinstating the respondent workman in service subject to the result of this petition.

3. The Labour Court, after considering the facts and circumstances of the case, has found that the respondent workman has not challenged the proceedings of the departmental inquiry and the same have been accepted by the respondent workman, which are found to be just and proper by the Labour Court. The Labour Court has also found that the respondent workman was guilty of the charges levelled against him. The Labour Court ultimately passed the judgment and award dated 17.09.1992 directing the petitioner corporation to reinstate the respondent workman in service without back wages for the intervening period.

4.As stated above, the respondent workman has already been reinstated in service vide order dated 15.10.1992 and hence the question of reinstatement now does not survive. However, the interest of justice would be met if the respondent workman is saddled with proper punishment. As stated above, the Labour Court, after appreciating the evidence on record, has found that the respondent workman is guilty of the charges levelled against him, however, directed the petitioner corporation to reinstate the respondent workman in service.

5.In this view of the matter, the order passed by the Labour Court dated 17.9.1992 directing the petitioner corporation to reinstate the respondent workman in service is confirmed subject to witholding of 4 increments with future effect so that it may have deterrent effect on the concerned employee workman and he may not commit such type of mistake in future.

6.Under the circumstances, this petition is partly allowed. The judgment and award dated 17.9.1992 passed by the Labour Court, Palanpur at Godhra in Reference (LCG) No. 291 of 1991 is hereby modified to the extent that the reinstatement of the respondent workman in service is subject to withholding of 4 increments with

future effect. Rule is made absolute to the aforesaid extent. No costs.

(Sharad D Dave,J)

srilatha